

No. PD-0241-20

In the Court of Criminal Appeals of Texas
At Austin

FILED
COURT OF CRIMINAL APPEALS
8/19/2020
DEANA WILLIAMSON, CLERK

No. 14-17-00606-CR

In the Fourteenth Court of Appeals at Houston

No. 1513928

In the 177th District Court
Of Harris County

Suzanne Elizabeth Wexler

Appellant

v.

The State of Texas

Appellee

**State's First Motion for Extension
Of Time to File Appellate Brief**

To the Honorable Court of Appeals:

The State of Texas asks for a 15-day extension of time in which to file its brief on discretionary review. The following facts are relevant:

1. A grand jury indicted Appellant for the felony offense of possession of a controlled substance with an intent to distribute, which occurred on

or about June 16, 2016. (C.R. 10).¹ On June 27, 2017, a jury convicted Appellant for the charged offense. (C.R. 58). On the same day, the trial court sentenced Appellant to 25 years in the Institutional Division of the Texas Department of Criminal Justice. (C.R. 60). Appellant gave her notice of appeal on July 17, 2017; the trial court certified Appellant's right to appeal on the same day. (C.R. 73-74). On May 03, 2018, after a hearing, the trial court denied Appellant's motion for new trial. (Supp. C.R. 03).

2. On direct appeal, a majority of the Fourteenth Court of Appeals panel affirmed Appellant's conviction and sentence. *Wexler v. State*, 593 S.W.3d 772 (Tex. App.—Houston [14th Dist.] 2019, pet. granted). Appellant filed a motion for *en banc* reconsideration, which was denied with two justices voting to grant. This Court granted discretionary review.
3. The State's brief is due on August 17, 2020.
4. This is the State's first request for extension.

¹ There are multiple clerk's records in this case. For purposes of this motion, the original clerk's record will appear as "(C.R. ##)" while the clerk's record delivered to the court of appeals on May 23, 2018 will appear as "(Supp. C.R. ##)."

5. Since the appellant filed his brief on discretionary review on July . 16, 2018, the undersigned attorney has worked on the following appellate cases:

- a. Jairus Warren
No. 14-19-00589-CR
- b. State v. Samuel Reynolds
No. 14-20-00455-CR
- c. Kurt Kapperman
No. 01-20-00127-CR

6. The undersigned attorney has three other active cases assigned to him and is attempting to submit briefs in a timely manner. The undersigned attorney has been working on this case in a good faith effort to meet the current deadline, but was unable to do that.

7. In addition to the above, the undersigned attorney's duties include assisting and advising trial prosecutors with legal matters. The request for legal advice has increased during the recent COVID-19 outbreak. In particular, the undersigned has regularly dealt with relatively novel issues in the trial court as the interaction between existing caselaw, the Supreme Court and this Court's emergency orders, and the outbreak. The request and need for legal advice has noticeably increased in the past month as trial courts are attempting

to resume trials – both by jury and court. This triage of novel legal questions has interrupted the undersigned's working pace.

WHEREFORE, the State prays that this Court will grant the requested extension.

Respectfully submitted,

/s/ John D. Crump

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